

Surface Transportation Board, DOT

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employee to the agency as permitted or required by law.

§ 1017.3 Applicability.

These regulations are to be followed when:

(a) The Board is owed a debt by a current employee;

(b) The Board is owed a debt by an individual currently employed by another Federal agency;

(c) The Board employs an individual who owes a debt to another Federal agency; and

(d) The Board is owed a debt by an employee who separates from Federal Government service. The authority to collect debts owed by former Federal employees is found in the FCCS and 31 U.S.C. 3716.

§ 1017.4 Notice requirements.

(a) Deductions shall not be made unless the employee is provided with written notice, signed by the debt collection official (Chief, Section of Financial Services), of the debt at least 30 days before administrative offset commences.

(b) The written notice to current Federal employees shall be hand delivered if at headquarters or sent certified mail, return receipt requested, if located in a field office and shall contain:

(1) A statement that the debt is owed and an explanation of its nature and amount;

(2) The agency's intention to collect the debt by means of deduction from the employee's current disposable pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deduction(s);

(4) An explanation of interest, penalties, and administrative charges, including a statement that such charges will be assessed unless excused in accordance with the FCCS (4 CFR 101.1 et seq.);

(5) The employee's right to inspect, request, and copy Government records relating to the debt (if an employee is unable to physically inspect the Government records, the agency will reproduce copies of the records and may charge for those copies);

(6) If not previously provided, the opportunity (under terms agreeable to

the creditor agency) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement with the agency to establish a schedule for the voluntary repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the creditor agency, and documented in the creditor agency's files (4 CFR 102.2(e));

(7) The right to a hearing conducted by an impartial hearing official concerning the existence or amount of the debt and the repayment schedule, if it was not established by a written agreement between the employee and the creditor agency;

(8) The method and time period for petitioning for a hearing;

(9) A statement that the timely filing of a petition for a hearing (on or before the 15th day following receipt of the written notice) will stay the commencement of collection proceedings, together with instructions on how and where to file a petition;

(10) A statement that a final decision on the hearing (if one is requested) will be issued not later than 60 days after the filing of the petition requesting the hearing unless the employee requests, and the hearing official grants, a delay in the proceedings;

(11) A statement that knowingly false or frivolous statements, representations, or evidence may subject the employee to appropriate disciplinary procedures and criminal penalties (i.e., for false certification, etc.);

(12) A statement of other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(13) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

(c) The written notice to former Federal employees shall be sent certified mail, return receipt requested, and shall contain:

(1) A statement that the debt is owed and an explanation of its nature and amount;

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(2) The agency's intention to collect the debt by administrative offset against amounts due and payable to the debtor from the Civil Service Retirement and Disability Fund or by use of a collection service to recover the delinquent debt;

(3) An explanation of interest, penalties, and administrative charges, including a statement that such charges will be assessed unless excused in accordance with 4 CFR 101.1 et seq.;

(4) The former employee's rights to inspect, request, and copy Government records relating to the debt (if the former employee is unable to physically inspect the Government records, the agency will reproduce copies of the records and may charge for those copies);

(5) The opportunity to enter into a written agreement with the agency to establish a schedule for the voluntary repayment of the debt;

(6) The right to a hearing conducted by an impartial hearing official concerning the existence or amount of the debt and the repayment schedule, if it was not established by a written agreement between the former employee and the creditor agency;

(7) The method and time period for petitioning for a hearing;

(8) A statement that the timely filing of a petition for a hearing (on or before the 15th day following receipt of the written notice) will stay the commencement of collection proceedings, together with instructions on how and where to file a petition;

(9) A statement that a final decision on the hearing will be issued not later than 60 days after the filing of the petition requesting the hearing unless the former employee requests, and the hearing official grants, a delay in the proceedings;

(10) A statement that knowingly false or frivolous statements, representations, or evidence may subject the former employee to appropriate criminal penalties (i.e., for false certification, etc.);

(11) A statement of other rights and remedies available to the former employee under statutes or regulations governing the program for which the collection is being made; and

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(12) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the former employee.

[56 FR 32333, July 16, 1991, as amended at 64 FR 53267, Oct. 1, 1999]

§ 1017.5 Hearing procedures.

(a) Upon the Administrative Law Judge's determination of an employee's compliance with §§ 1017.4(b)(8) or 1017.4(c)(7) of this part, whichever is applicable, he/she shall set the time, date, and location for the hearing, paying due consideration to convenience to the employee.

(b) All significant matters discussed at the hearing shall be documented, although a verbatim transcript of the hearing shall not be made.

(c) The Administrative Law Judge may exclude any evidence he/she deems irrelevant, immaterial, or unduly repetitious.

(d) Any party to a hearing under these regulations is entitled to present his or her case or defense by oral or documentary evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) The Board has the initial burden of proof as to the existence and amount of the debt.

(f) The employee requesting the hearing shall bear the ultimate burden of proof.

(g) The evidence presented by the employee must prove that no debt exists or cast sufficient doubt that reasonable minds could differ as to the existence or amount of the debt.

(h) Where the employee files a petition for a hearing contesting the offset schedule imposed by the Board, the Administrative Law Judge shall take into consideration all relevant factors as to the employee's financial situation in determining whether said offset schedule should be altered.

(i) Any party to a hearing under these regulations is entitled to be accompanied, represented, and advised by counsel, as well as to appear in person or by or with counsel.